

### **REMARKS/ARGUMENTS**

Applicants wish to thank the Examiner for the careful review of the IDS, claims, specification, and drawings.

#### **Drawings**

The Office Action argues that the drawings are objected to because Figures 1E, 4A and 4B do not have labeled axes.

Replacement sheets for Figs. 1E, 4A, and 4B are attached. The replacement sheets replace the original Figs. 1E, 4A, and 4B. Figs. 1E, 4A, and 4B include labeled axes.

No new subject matter has been added.

#### **Specification**

The Office Action argues that the disclosure is objected to because of the following informalities: Paragraph [0092] of the instant specification refers to the "aggregated forecast 406, chart 408 of FIG. 4B" but no 406 is shown in Figure 4B.

Paragraph [0091] has been amended to clarify that aggregated forecast 406 is illustrated in the example of Fig. 4A.

No new subject matter has been added.

#### **Claims**

Claims 1 and 31 have been amended.

After entry of this amendment, claims 1-38 are pending

It is respectfully submitted that each and every feature recited in the pending claims is fully supported in the specification, drawings, and claims as filed. No new subject matter has been added.

#### **Claim Objections**

The Office Action argues that claim 31 is objected to because it is not clear whether the Applicant is claiming an article of manufacture or a computer readable storage.

Claim 31 has been amended to clearly claim the article of manufacture.

No new subject matter has been added.

**Rejections under 35 USC § 112**

The Office Action argues that claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action indicates that, in order to overcome this rejection, a substantive physical structure must be claimed.

Claim 1 has been amended with support from, for example, paragraphs [0030]-[0031] to include the features, in the manner claimed, of the program storage medium, which is a substantive physical structure.

No new subject matter has been added.

**Rejections under 35 USC § 103**

The Office Action argues that claims 1, 7-11, 16, 22-26, 31, 37, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nafeh et al. (USPub. No. 2002/0069155), hereinafter "Nafeh", in view of Bjerre et al (USPub. No. 2002/0123911), hereinafter "Bjerre", in further view of Bergkvist ("The value of time and forecasting of flows in freight transportation", presented at the 41st ERSa congress in Zagreb 2001).

The Office Action also argues that claims 2, 17, and 32 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Nafeh in view of Bjerre in further view of Bergkvist in further view of Metcalfe et al. (US Pub. No. 2002/0138290), hereinafter "Metcalfe".

The Office Action also argues that claims 3-6, 18-21, and 33-36 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Nafeh in view of Bjerre in further view of Bergkvist in further view of Scheer (US Pub. No. US 2002/0138358).

The Office Action also argues that claims 12-15 and 27-30 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Nafeh in view of Bjerre in further view of Bergkvist in further view of Haigh ("Cointegration, unbiased expectations, and forecasting in the BIFFEX freight futures market", The Journal of Futures Markets, Hoboken: Jul 2000, Vol. 20, Iss. 6; pg. 545), hereinafter referred to as "Haigh2".

Reconsideration of the rejections is respectfully requested.

It is respectfully submitted that the previously presented claims 1, 16, and 31 includes limitations/features that are not taught by the cited prior art references, including Nafeh, Bjerre, Bergkvist, Metcalfe, Scheer, and Haigh2. For example, claim 16, a method claim, includes the features, in the manner claimed, of displaying forecast data pertaining to demand forecasts

between the first geographic location and the second geographic location to be viewed simultaneously with the derivative contract data.

In contrast, the cited prior art references do not teach displaying derivative contract data pertaining to shipment capacity offered by carriers between a first geographic location and a second geographic location; and the cited references do not teach displaying forecast data provided by shippers pertaining to demand forecast between the first geographic location and the second geographic location.

The Office Action argues that Nafeh discloses “to view data and news related to activity within market” and that “Examiner interprets viewing data and news as Applicant’s displaying derivative contract data and displaying forecast data.” Nevertheless, it is respectfully submitted that Nafeh’s data and news should not be interpreted based on hindsight. Specifically, Nafeh (paragraph [0465]-[0466]) teaches data and news such as recent pertinent newsfeeds from commercial wire services, summary historical and background information on recent trading, price, volume activity on the contract, real time quotes for the best bid and offer for each contract in each outstanding series of the contract bundle, the expiration date for each outstanding series, the payout criterion for each contract, and the current rate, level, or value of the underlying. Nafeh does not teach shipment capacity offered by carriers between a first geographic location and a second geographic location; and Nafeh’s news cannot be reasonably interpreted as forecast data because news is related to events that have happened. Other cited references also do not cure Nafeh’s deficiencies.

As another example, each of the previously presented claims 1, 16, and 31 includes the features, in the manner claimed, of receiving shipper assessment of accuracy of the forecast data from the shippers, sorting the forecast data by geography, sorting actual data by geography, comparing the forecast data with the actual data to calculate a forecast quality index, and publishing the shipper assessment and the forecast quality index.

In contrast, the cited references do not disclose the abovementioned example features in the manner claimed in claims 1, 16, and 31. The Office Action acknowledges that neither Nafeh nor Bjerre explicitly discloses the abovementioned example features. However, the Office Action argues that Bergkvist teaches the valuation of quality aspects for freight transports such as faster and more reliable transports as well as the forecast of road freight flows. The Office Action also argues that Bergkvist further discloses the estimation of values of time and delays, the forecast of aggregated road freight flows, and the modeling of transport choices. The Office

Action also argues that Bergkvist further discloses qualitative measures such as road width or a general quality index in modeling road freight flows and transport choice. The Office Action also argues that Examiner interprets estimation of values, forecast of aggregated road freight flows, and modeling [sic] of transport choices as indicative of Applicant's sorting and comparing forecast data and publishing shipper assessment.

However, value estimation, freight flow forecast, and modeling are not accuracy assessment. It is respectfully submitted that estimation of values of time and delays, forecast of aggregated road freight flows, and modeling transport choices are not indicative of receiving assessment of accuracy of forecast data from shippers, are not indicative of comparing forecast data with actual data to calculate a forecast quality index, are not indicative of sorting data by geography, and are not indicative of publishing shipper assessment and a forecast quality index. The other cited references do not cure the deficiencies of Bergkvist, Nafeh, and Bjerre.

For the aforementioned reasons and others, it is respectfully submitted that each of the independent claims 1, 16, and 31 is novel, non-obvious, and patentable over the cited arts of records, taken alone or in combination.

It is also respectfully submitted that claims 2-15, 17-30, and 32-38 which depend from at least one of claims 1, 16, and 31 also are novel, nonobvious, and patentable not only due to their dependence from at least one of the patentable parent claims 1, 16, and 31 but also due to their recitation of independently patentable features.

No new subject matter has been added.

**CONCLUSION**

In view of the discussion herein, Applicant(s) believe that all pending claims are allowable and respectfully request a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at 408-213-9540.

If any petition is required to facilitate the entry of the present amendment, please consider this communication a petition therefore as well. A credit card payment for a 3 (Three) month extension is provided. A credit card payment in the amount of \$555.00 is provided herewith. The Commissioner is authorized to charge any fees beyond the amount enclosed which may be required, or to credit any overpayment, to Deposit Account No. 50-2284 (Order No. FFRT-P002).

Respectfully submitted,  
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